ARTICLE XI—AMENDMENTS

These bylaws may be amended in a manner consistent with regulations of the Board and shall be effective after: (i) approval of the amendment by a majority vote of the authorized board of directors, or by a majority vote of the votes cast by the shareholders of the Subsidiary Holding Company at any legal meeting, and (ii) receipt of any applicable regulatory approval. When a Subsidiary Holding Company fails to meet its quorum requirements, solely due to vacancies on the board, then the affirmative vote of a majority of the sitting board will be required to amend the bylaws.

PART 243—RESOLUTION PLANS

Sec.

AUTHORITY: 12 U.S.C. 5365.

SOURCE: 76 FR 67340, Nov. 1, 2011, unless otherwise noted.

§ 243.1 Authority and scope.

(a) *Authority*. This part is issued pursuant to section 165(d)(8) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the *Dodd-Frank Act*) (Pub. L. 111–203, 124 Stat. 1376, 1426–1427), 12 U.S.C. 5365(d)(8), which requires the Board of Governors of the Federal Reserve System (*Board*) and the Federal Deposit Insurance Corporation (*Corporation*) to jointly issue rules implementing the provisions of section 165(d) of the Dodd-Frank Act.

(b) *Scope*. This part applies to each covered company and establishes rules and requirements regarding the submission and content of a resolution plan, as well as procedures for review by the Board and Corporation of a resolution plan.

§ 243.2 Definitions.

For purposes of this part:

(a) *Bankruptcy Code* means Title 11 of the United States Code.

(b) *Company* means a corporation, partnership, limited liability company, depository institution, business trust, special purpose entity, association, or similar organization, but does not include any organization, the majority of the voting securities of which are owned by the United States.

(c) *Control*. A company controls another company when the first company, directly or indirectly, owns, or holds with power to vote, 25 percent or more of any class of the second company's outstanding voting securities.

(d) *Core business lines* means those business lines of the covered company, including associated operations, services, functions and support, that, in the view of the covered company, upon failure would result in a material loss of revenue, profit, or franchise value.

(e) *Council* means the Financial Stability Oversight Council established by section 111 of the Dodd-Frank Act (12 U.S.C. 5321).

(f) *Covered company*—(1) *In general*. A ''covered company'' means:

(i) Any nonbank financial company supervised by the Board;

(ii) Any bank holding company, as that term is defined in section 2 of the Bank Holding Company Act, as amended (12 U.S.C. 1841), and the Board's Regulation Y (12 CFR part 225), that has $50 billion or more in total consolidated assets, as determined based on the average of the company's four most recent Consolidated Financial Statements for Bank Holding Companies as reported on the Federal Reserve's Form FR Y–9C (''FR Y–9C''); and

(iii) Any foreign bank or company that is a bank holding company or is treated as a bank holding company under section 8(a) of the International Banking Act of 1978 (12 U.S.C. 3106(a)), and that has $50 billion or more in total consolidated assets, as determined based on the foreign bank's or company's most recent annual or, as applicable, the average of the four most recent quarterly Capital and Asset Reports for Foreign Banking Organizations as reported on the Federal Reserve's Form FR Y–7Q (''FR Y–7Q'').

(2) Once a covered company meets the requirements described in paragraph (f)(1)(ii) or (iii) of this section, the company shall remain a covered company for purposes of this part unless and until the company has less than $45 billion in total consolidated assets, as determined based on the—

(i) Average total consolidated assets as reported on the company's four most recent FR Y–9Cs, in the case of a covered company described in paragraph (f)(1)(ii) of this section; or

(ii) Total consolidated assets as reported on the company's most recent annual FR Y–7Q, or, as applicable, average total consolidated assets as reported on the company's four most recent quarterly FR Y–7Qs, in the case of a covered company described in paragraph (f)(1)(iii) of this section. Nothing in this paragraph (f)(2) shall preclude a company from becoming a covered company pursuant to paragraph (f)(1) of this section.

(3) *Multi-tiered holding company*. In a multi-tiered holding company structure, covered company means the top-tier of the multi-tiered holding company only.

(4) *Asset threshold for bank holding companies and foreign banking organizations*. The Board may, pursuant to a recommendation of the Council, raise any asset threshold specified in paragraph (f)(1)(ii) or (iii) of this section.

(5) *Exclusion*. A bridge financial company chartered pursuant to 12 U.S.C. 5390(h) shall not be deemed to be a covered company hereunder.

(g) *Critical operations* means those operations of the covered company, including associated services, functions and support, the failure or discontinuance of which, in the view of the covered company or as jointly directed by the Board and the Corporation, would pose a threat to the financial stability of the United States.

(h) *Depository institution* has the same meaning as in section 3(c)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(1)) and includes a state-licensed uninsured branch, agency, or commercial lending subsidiary of a foreign bank.

(i) *Foreign banking organization* means—

(1) A foreign bank, as defined in section 1(b)(7) of the International Banking Act of 1978 (12 U.S.C. 3101(7)), that:

(i) Operates a branch, agency, or commercial lending company subsidiary in the United States;

(ii) Controls a bank in the United States; or

(iii) Controls an Edge corporation acquired after March 5, 1987; and

(2) Any company of which the foreign bank is a subsidiary.

(j) *Foreign-based company* means any covered company that is not incorporated or organized under the laws of the United States.

(k) *Functionally regulated subsidiary* has the same meaning as in section 5(c)(5) of the Bank Holding Company Act, as amended (12 U.S.C. 1844(c)(5)).

(l) *Material entity* means a subsidiary or foreign office of the covered company that is significant to the activities of a critical operation or core business line (as defined in this part).

(m) *Material financial distress* with regard to a covered company means that:

(1) The covered company has incurred, or is likely to incur, losses that will deplete all or substantially all of its capital, and there is no reasonable prospect for the company to avoid such depletion;

(2) The assets of the covered company are, or are likely to be, less than its obligations to creditors and others; or

(3) The covered company is, or is likely to be, unable to pay its obligations (other than those subject to a bona fide dispute) in the normal course of business.

(n) *Nonbank financial company supervised by the Board* means a nonbank financial company or other company that the Council has determined under section 113 of the Dodd-Frank Act (12 U.S.C. 5323) shall be supervised by the Board and for which such determination is still in effect.

(o) *Rapid and orderly resolution* means a reorganization or liquidation of the covered company (or, in the case of a covered company that is incorporated or organized in a jurisdiction other than the United States, the subsidiaries and operations of such foreign company that are domiciled in the United States) under the Bankruptcy Code that can be accomplished within a

reasonable period of time and in a manner that substantially mitigates the risk that the failure of the covered company would have serious adverse effects on financial stability in the United States.

(p) *Subsidiary* means a company that is controlled by another company, and an indirect subsidiary is a company that is controlled by a subsidiary of a company.

(q) *United States* means the United States and includes any state of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, and the Virgin Islands.

§ 243.3 Resolution plan required.

(a) *Initial and annual resolution plans required.* (1) Each covered company shall submit its initial resolution plan to the Board and the Corporation on or before the date set forth below (''Initial Submission Date''):

(i) July 1, 2012, with respect to any covered company that, as of the effective date of this part, had $250 billion or more in total nonbank assets (or, in the case of a covered company that is a foreign-based company, in total U.S. nonbank assets);

(ii) July 1, 2013, with respect to any covered company that is not described in paragraph (a)(1)(i) of this section, and that, as of the effective date of this part had $100 billion or more in total nonbank assets (or, in the case of a covered company that is a foreign-based company, in total U.S. nonbank assets); and

(iii) December 31, 2013, with respect to any other covered company that is a covered company as of the effective date of this part but that is not described in paragraph (a)(1)(i) or (ii) of this section.

(2) A company that becomes a covered company after the effective date of this part shall submit its initial resolution plan no later than the next July 1 following the date the company becomes a covered company, provided such date occurs no earlier than 270 days after the date on which the company became a covered company.

(3) After filing its initial resolution plan pursuant to paragraph (a)(1) or (2) of this section, each covered company shall annually submit a resolution plan to the Board and the Corporation on or before each anniversary date of its Initial Submission Date.

(4) Notwithstanding anything to the contrary in this paragraph (a), the Board and Corporation may jointly determine that a covered company shall file its initial or annual resolution plan by a date other than as provided in this paragraph (a). The Board and the Corporation shall provide a covered company with written notice of a determination under this paragraph (a)(4) no later than 180 days prior to the date on which the Board and Corporation jointly determined to require the covered company to submit its resolution plan.

(b) *Authority to require interim updates and notice of material events*—(1) *In general.* The Board and the Corporation may jointly require that a covered company file an update to a resolution plan submitted under paragraph (a) of this section, within a reasonable amount of time, as jointly determined by the Board and Corporation. The Board and the Corporation shall make a request pursuant to this paragraph (b)(1) in writing, and shall specify the portions or aspects of the resolution plan the covered company shall update.

(2) *Notice of material events.* Each covered company shall provide the Board and the Corporation with a notice no later than 45 days after any event, occurrence, change in conditions or circumstances, or other change that results in, or could reasonably be foreseen to have, a material effect on the resolution plan of the covered company. Such notice should describe the event, occurrence or change and explain why the event, occurrence or change may require changes to the resolution plan. The covered company shall address any event, occurrence or change with respect to which it has provided notice pursuant to this paragraph (b)(2) in the following resolution plan submitted by the covered company.

(3) *Exception.* A covered company shall not be required to file a notice under paragraph (b)(2) of this section if the date on which the covered company would be required to submit the notice under paragraph (b)(2) would be within 90 days prior to the date on which the